

Introduced by Senator Dunn

February 12, 2003

An act to add Section 17206.7 to the Business and Professions Code, and to add Section 391.1 to the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 173, as introduced, Dunn. Energy.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, and authorizes the commission to fix just and reasonable rates and charges. Existing law provides for a short-run avoided cost methodology for the price paid by a public utility electrical corporation for electricity generated by a nonutility, qualifying small power production or qualifying cogeneration facility (QF), as defined. This methodology includes adjustments to prices based upon gas index prices.

This bill would require the commission to use only gas price indexes determined by the commission to be reliable and verified and to establish standards for reliability and verification for gas price indexes used to establish or adjust prices paid to QFs by a public utility electrical corporation. The bill would further provide that if the commission determines that no reliable and verifiable gas price index exists meeting the standards adopted by the commission, the commission is required to establish and adjust the prices paid to QFs by a public utility electrical corporation in an equitable manner, consistent with the requirements of the federal Public Utility Regulatory Policies Act of 1978.

(2) Existing law prohibits unfair competition, including any unlawful, unfair, or fraudulent business act or practices. In an action brought in the name of the people by the Attorney General or any

district attorney, and in specified instances by a county counsel, city prosecutor, or city attorney, existing law provides that any person who engages, has engaged, or proposes to engage in unfair competition, is liable for a civil penalty not to exceed \$2,500 for each violation.

This bill would provide that any person engaging in an act of unfair competition of making or proposing to make a false statement or report for use in a gas index price, is liable for a civil penalty not to exceed \$25,000 for each violation.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 391.1 is added to the Public Utilities
2 Code, to read:

3 391.1. (a) The commission shall use only gas price indexes
4 determined by the commission to be reliable and verified, for
5 establishing or adjusting prices paid to nonutility power generators
6 by a public utility electrical corporation pursuant to Section 390.

7 (b) The commission shall establish standards for reliability and
8 verification for gas price indexes used to establish or adjust prices
9 paid to nonutility power generators by a public utility electrical
10 corporation pursuant to Section 390.

11 (c) If the commission determines that no reliable and verifiable
12 gas price index exists meeting the standards adopted pursuant to
13 this section, the commission shall establish and adjust the prices
14 paid to nonutility power generators by a public utility electrical
15 corporation in an equitable manner, consistent with the Public
16 Utility Regulatory Policies Act of 1978 (federal Public Law
17 95-617), including any amendments to that act and the regulations
18 adopted under that act by the Federal Energy Regulatory
19 Commission.

20 SEC. 2. Section 17206.7 is added to the Business and
21 Professions Code, to read:

22 17206.7. (a) Making a false statement or report for use in an
23 energy price index is unfair competition.

24 (b) Notwithstanding the maximum civil penalty in Section
25 17206, any person who makes, has made, or proposes to make a
26 false statement or report for use in a gas price index pursuant to
27 Section 390 of the Public Utilities Code, shall be liable for a civil



1 penalty not to exceed twenty-five thousand dollars (\$25,000) for
2 each violation.

3 SEC. 3. (a) Subdivision (a) of Section 17206.7 of the
4 Business and Professions Code does not constitute a change in, but
5 is declaratory of, existing law.

6 (b) It is the intention of the Legislature in adding subdivision
7 (b) of Section 17206.7 of the Business and Professions Code, to
8 change existing law by providing for civil penalties in an amount
9 higher than would be available pursuant to Section 17206.

